



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Coal Mine Health And Safety

TITLE-SERIES: 36-17

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: UNUSED AND ABANDONED PARTS OF MINE

CITE STATUTORY AUTHORITY: W. Va. Code §§22A-6-4 and 22A-2-5.

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

March 12, 2020

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 36
LEGISLATIVE RULE
BOARD OF COAL MINE HEALTH AND SAFETY

SERIES 17
UNUSED AND ABANDONED PARTS OF MINE

§36-17-1. General.

- 1.1. Scope. -- Rules and regulations governing unused and abandoned parts of mine.
- 1.2. Authority. -- W. Va. Code §§22A-6-4 and 22A-2-5.
- 1.3. Filing Date. -- December 13, 2019.
- 1.4. Effective Date. -- March 12, 2020.

§36-17-2. Effect of Regulations.

2.1. This Series shall have the effect of law and violations shall be deemed a violation of law and so cited with the same effect as law. All provisions of W. Va. Code §22A-1-1 *et seq.*, relative to enforcement are applicable to the enforcement of this Series.

§36-17-3. Definitions.

All terms used in this Series, not defined herein, shall have the meanings set forth in W. Va. Code §22A-1-2.

§36-17-4. Unused And Abandoned Parts Of Mine.

4.1. In any mine, all workings which are abandoned after the first day of July, one thousand nine hundred seventy-one, shall be sealed or ventilated.

4.1.1. If the workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the Director of the Office of Miners' Health, Safety and Training and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be considered to be abandoned until such panel is abandoned.

4.1.2. Air that has passed through an abandoned area or area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless permission is granted by the Director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. Air which has been used to ventilate an area from which the pillars have been removed shall not be used to ventilate any working place in a mine, except that the air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the Director shall be notified.

4.1.3. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25

volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent are reopened, the Director shall be notified.

4.2. A professional engineer registered with the Board of Registration for Professional Engineers pursuant to W. Va. Code § 30-13-1 *et seq.*, shall certify the design of all new seals as meeting the requirements of 30 C.F.R. § 75.335 (2015). Seal installation, seal sampling and monitoring, seal construction and repair, and seal records shall comply with the requirements of 30 C.F.R. §§ 75.300 through 75.389.